



Where does "the main risk to Poland's financial stability" come from?

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Why am I even writing about this?

This is exactly what part of my current PhD project is about as in the framework of the research group Peripheral Debt: Money, Risk and Politics in Eastern Europe. So, here is my "hot take" on where this particular risk comes from.

The title of my ongoing doctoral research, *The Finances, Futures, and Fights of the Frankowicze*, uses the colloquial Polish name for a heterogeneous group of borrowers who in the mid to late 2000s took out an FX housing loan, most often in the Swiss franc currency. These FX housing loans initially offered a financially advantageous interest rate, but at the same time exposed mortgagors to the risk of exchange rate instability.

What are the key historical moments for these Polish FX borrowers?

A risk that unbeknownst to the borrowers would affect both the monthly repayments and the total amount of money owed. A risk that would manifest itself most vividly at two moments, namely in the aftermath of the Global Financial Crisis of 2007-08, and the Swiss National Bank's decision to unpeg the Swiss franc currency from the Euro on 15 January 2015. Many borrowers commonly refer to this date as Black Thursday (Czarny czwartek) with the purpose of invoking another financial event, namely, the Wall Street Crash of 1929. Simply put, the stronger the Swiss franc currency became, the more money they had to pay back.

One might be tempted to ask, why did these borrowers not simply take out a housing loan in their national currency? The answer is not that simple. Besides the higher interest rate on domestic currency housing loans, borrowers also recall being told by bank clerks that they did not meet their creditworthiness assessments for domestic currency and were only eligible for a housing loan in foreign currency (Swiss franc, Euro, or Dollar). Therefore, there was little to no option but

to take out such an FX housing loan. At the same time, it is also worth pointing out the housing boom at the time of the late 2000s; as more and more people contracted FX housing loans, prices of real estate kept going up, which caused a feedback loop of higher prices and even bigger loans.

However, this legal risk is not completely unexpected and is an outcome of (failed) lobbying efforts, unkept presidential campaign promises, and debtors' growing dissatisfaction with their political representation. For example, the association Stop Banking Lawlessness (Stop Bankowemu Bezprawiu) has since 2015 actively tried to gather public attention through protests, and appeals to politicians for policy reforms.

Even though policy reforms targeting Swiss franc loans were enacted in other Eastern and Central European countries, such as Croatia and Hungary, and were promised in Poland in 2015 by the then-presidential candidate Andrzej Duda, they never came to fruition. It was in fact Jarosław Kaczyński, the leader of the ruling Law and Justice party, who in a 2017 radio interview directly encouraged FX borrowers to seek justice in courtrooms. It seems that they have listened.

What are these FX borrowers doing now?

On a massive scale, FX borrowers are pursuing litigation, often relying on European consumer protection laws such as the Unfair Contract Terms Directive 93/13. An estimated 10 to 15% of all FX households pursue litigation. To the dismay of many borrowers, this has created a long waiting time, up to several years, for a court hearing. It has also created a lucrative market for lawyers providing much-needed legal (and implicitly financial) advice. Of course, banks also rely on highly esteemed, and sometimes international, law firms to represent them in court.

In true anthropological fashion, I mainly talk and hang out with these borrowers in order to find out what motivates them to pursue litigation, and what prevents or discourages them from submitting a lawsuit. The very same practice that (allegedly) is currently the main source of risk for Poland's financial stability. For many borrowers, going to court is the only viable alternative to ever getting rid of their debt, which they perceive as unpayable, especially after 15 years of trying. What motivates them is a combination of factors, but one statement made by a mother stuck with me; "My life is already ruined, now I am doing it for my children and their future".

In my discussions with lawyers representing the 'Frankowicze', they often highlight that focusing solely on the financial outcomes of litigation is beside the point; litigation is also about expanding (and in their words "educating" judges about) the aforementioned European consumer protection law. This goes beyond FX housing loan contracts and might aid future dissatisfied consumers in their litigation efforts.

At the moment, the line of jurisprudence is in favor of borrowers who took out such a housing loan, and their winning rate is around 95%. This is a rather recent achievement following many borrowers' lawsuits and in particular a notorious 2019 court ruling by the European Court of Justice: the Dziubak vs. Raiffeisen case (C-260/18). It ruled in favor of borrowers, unlike earlier (national) court verdicts that were either less financially favorable or not necessarily in their favor.

Why FX borrowers are not interested in currency conversion

Since late 2021, and in line with Financial Supervision Commission's (Komisja Nadzoru Finansowego) recommendation, banks have started to offer some of their clients out-of-court agreements. However, they are financially unappealing to these FX borrowers as they entail a currency conversion at a higher rate than initially contracted, thereby locking in the surge of the debts due to the franc appreciation. A point I would like to make clearer in a moment. But I would also stress what FX borrowers have told me repeatedly, which can be summed up to "why should I make an agreement with them now? When I came to them years ago, they were not interested at all". It is thus not only finance that motivates them but a sense of "justice".



Nationwide Borrowers' Protest (Ogólnopolski Protest Kredytobiorców (25.06.22)).

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It is here that I would like to point to a broader context, a context of the context if you will. Most mortgage loans in Poland are at variable interest rates. In late June this year, domestic currency borrowers also started to organize and protest as a direct response to a series of decisions of the Monetary Policy Council (Rada Polityki Pieniężnej) and by extension, the NBP to raise interest rates to combat Poland's inflation of more than 15% inflation rate, which almost doubled their monthly installments and put a severe strain on their household budgets. Thus, currency conversion for the "Frankowicze" might involve further financial risks.

This leaves litigation as the main - and most profitable - solution for FX borrowers. At least for the time being.

